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U. S. Supreme Court, U. S.
FILED

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CHARLES ELMORE DROPLEY
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IN THE

Supreme Court of the United States

OCTOBER TERM 1945.

No. 1126

GOLDBLATT BROS., INC., A CORPORATION,

Petitioner,

vs.

L. METCALFE WALLING, ADMINISTRATOR OF
THE WAGE AND HOUR DIVISION, UNITED
STATES DEPARTMENT OF LABOR,

Respondent.

**MOTION TO OMIT PRINTING RECORD ON PRIOR
CERTIORARI PROCEEDING.**

ABRAM N. PRITZKER,
STANFORD CLINTON,

Attorneys for petitioner.



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**MOTION TO OMIT PRINTING RECORD ON PRIOR
CERTIORARI PROCEEDING.**

Goldblatt Bros., Inc. petitioner in the above entitled cause, by Abram N. Pritzker and Stanford Clinton, its attorneys, respectfully moves the Court for the entry of an order that the record in Case No. 418, returnable to the October, 1942 term, need not be printed and included as part of the printed record in this cause and that the record filed in the aforementioned Case No. 418 be considered by this Court as part of the record in this cause.

In support of the motion, the petitioner respectfully represents as follows:

1. On April 16, 1940 the Administrator filed a com-

plaint against the petitioner in the United States District Court for the Northern District of Illinois, Eastern Division, charging the petitioner with certain violations of the Fair Labor Standards Act of 1938. (Act of 1938, c. 676, 52 Stat. 1060, 29 U.S.C., sec. 201 *et seq.*) The District Court dismissed the complaint on its own motion on the ground that none of petitioner's employees was engaged in commerce or in the production of goods for commerce. The opinion of the District Court is reported in 39 F. Supp. 701.

2. On June 25, 1942 the United States Circuit Court of Appeals affirmed the judgment in part and reversed it in part and remanded the cause for further proceedings. The opinion of the Circuit Court of Appeals is reported in 128 F. (2d) 778. The Administrator filed a petition for a writ of certiorari to review the judgment of the United States Circuit Court of Appeals. The petition was returnable to the October, 1942 term of this Court and was docketed as Case No. 418. The petition for certiorari was denied. (318 U.S. 757, 87 L. ed. 1130, 63 S. Ct. 528.)

3. After the denial of certiorari, the case was retried by the District Court in accordance with the remandment of the Circuit Court of Appeals. At the conclusion of the trial upon remandment the District Court again dismissed the complaint. The opinion of the District Court upon the second trial is reported in 56 F. Supp. 255. The United States Circuit Court of Appeals reversed this judgment on November 29, 1945, the opinion of the Court being reported in 152 F. (2d) 475. A petition for rehearing was denied on January 25, 1946. This proceeding is an application for certiorari with respect to this last decision of the United States Circuit Court of Appeals.

4. The record of the first trial contains approximately 550 pages.

There is filed herewith a certified copy of the record of the Circuit Court of Appeals upon which was based the application for certiorari in Case No. 418, returnable to the October, 1942 term.

WHEREFORE, the petitioner respectfully prays for the entry of an order that the record in Case No. 418, returnable to the October, 1942 term, need not be printed and included as part of the printed record in this cause and that the record filed in the aforementioned Case No. 418 be considered by this Court as part of the record in this cause.

ABRAM N. PRITZKER,
STANFORD CLINTON,
Attorneys for petitioner.